

REMARKS

Reconsideration of this application is requested. Claims 13-20, 31-36, 38 and 39 are in the case.

I. ELECTION/RESTRICTION

Election of Group II is hereby affirmed. Claims 1-12, 21-30, 37, 40, 41, 42, 44 and 45 have been canceled without prejudice to the possibility of pursuing that subject matter in a separate continuing application.

II. SPECIFICATION

The specification has been amended to include customary headings, including a brief description of the drawings. No new matter is entered.

A new Abstract is also presented on a separate sheet attached to this response. The Abstract is based on claim 13. No new matter is entered.

III. THE 35 U.S.C. § 112, SECOND PARAGRAPH, REJECTIONS

Claim 45 stands rejected under 35 U.S.C. § 112, second paragraph, for the reasons stated on page 4 of the Action. In response, claim 45 has been canceled without prejudice. Use claims 37, 40 and 41 and omnibus claim 44 has also been canceled without prejudice.

Withdrawal of the outstanding 35 U.S.C. § 112, second paragraph, rejection is now believed to be in order. Such action is respectfully requested.

IV. THE ANTICIPATION REJECTION

Claims 13-18 and 31-38 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by GB 2061372 to Shorey et al. That rejection is respectfully traversed.

Without conceding to the merit of the rejection, and in order to reduce the issues, claims in this application have been amended so as to be directed to a fastener for securing a tube to a patient. The fastener comprises a sleeve of variable length capable when lengthened of gripping the tube. All independent claims remaining in the case are limited to the presence of a tube which is secured to a patient by the fastener of the invention.

Shorey is directed to "cable grips" (page 1 line3), which can be used "indoors or outdoors on any suitable structure such as a building or pole, down an excavation, in a mine shaft and elsewhere" (page 1, lines 26-29). Shorey has nothing whatsoever to do with tubes which are connected to patients. Shorey therefore does not anticipate (or suggest) the invention as claimed in the present application. Reconsideration and withdrawal of the outstanding anticipation rejection based on that reference are accordingly respectfully requested.

V. THE OBVIOUSNESS REJECTION

Claims 19 and 20 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Shorey in view of Hoerby. That rejection is respectfully traversed.

Claims 19 and 20 are dependent, either directly or indirectly, on claim 13, which is not anticipate or suggested by Shorey for the above-discussed reasons. Hoerby is relied upon for an alleged disclosure for use of an adhesive pad for connecting a fluid

line to the mouth of a patient. In as much as Shorey does not anticipate or suggest a fastener for securing a tube to a patient, it is clear that one of ordinary skill would not have been motivated to combine the disclosures of Shorey and Hoerby to arrive at the presently claimed invention. Absent any such motivation, it is clear that the combined disclosures of Shorey and Hoerby do not give rise to a *prima facie* case of obviousness. Reconsideration and withdrawal of the outstanding obviousness rejection are accordingly respectfully requested.

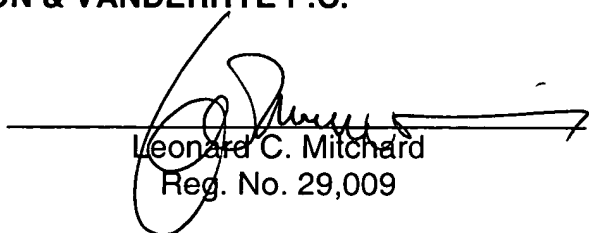
Allowance of the application is awaited.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached pages are captioned "**Version With Markings To Show Changes Made.**"

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____


Leonard C. Mitchard
Reg. No. 29,009

LCM:lfm
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100



VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE SPECIFICATION

The paragraph beginning at page 1, after line 9 insert:

BACKGROUND OF THE INVENTION

The paragraph beginning at page 7, after line 3 insert:

SUMMARY OF THE INVENTION

The paragraph beginning at page 9, after line 18 insert:

BRIEF DESCRIPTION OF THE DRAWINGS

The paragraph beginning at page 11, after line 13 insert:

DETAILED DESCRIPTION OF PREFERRED EMBODIMENTS

IN THE ABSTRACT

Please insert the following new Abstract presented on a separate sheet attached to this response.

IN THE CLAIMS

Claims 1-12, 21-30, 37, 40, 41, 42, 44 and 45 are canceled without prejudice.

13. (Amended) A fastener for securing a [line] tube to a patient, comprising a sleeve of variable length capable when lengthened of gripping the [line] tube.

14. (Amended) A fastener according to claim 13, wherein the sleeve when shortened is capable of sliding along the [line] tube.

32. (Amended) A fastener according to claim 31, wherein an opening is capable of permitting the [line] tube to pass through the wall of the sleeve.

36. (Amended) A fastener comprising a sleeve of variable length capable when lengthened of gripping a [line] tube for the purpose of securing the [line] tube to a patient.

38. (Twice Amended) In combination, a [line] tube to be secured to a patient and a fastener as defined in claim 13.

39. (Twice Amended) In combination, a fastener as defined in claim 13 and instructions for its use in securing a [line] tube to a patient.

ABSTRACT OF THE DISCLOSURE

9 Fastener for securing a tube to a patient having a sleeve of variable length
capable when lengthened of gripping the tube.
